# United Kingdom - Existing Protocols for Selecting Sites and Assessing Risk

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# Before we begin

- I am not a lawyer!
- This is an everyman's guide to the situation in the UK and Europe as it is in practice

- So

- Don't quote me!

# The legal background

- Countries of the European Union are subject to European law
- This requires an ‘appropriate’ Environmental Impact Assessment (EIA) for all wind farm developments
- Each county enacts European Law in its own legislation
- So ‘appropriate’ means different things in different countries
- Appeal to the European Court is possible

# The main players

- Applicants
  - Wind farm developers
  - Major Energy utilities
- Consultees
  - Local residents
  - Government conservation bodies (statutory)
  - NGO's e.g. RSPB (non-statutory but powerful e.g. NRA)
- Consultants
  - Biological research organisations
  - Private and government (CSL)
- Planning authorities
  - Local
  - National
- European Court

# The UK planning process

- Small applications determined by the local planning authority
- Applicant applies (supplies EIA) and others (e.g. local residents, statutory consultees, NGO's etc.) can object. Objections are taken seriously.
- The losing side can appeal
- Large applications and appeals are determined by a planning inquiry (follows the same format as a court case with lawyers etc. for both sides putting the case with expert witnesses and a ruling made by a planning inspector rather than a judge).

# ‘Appropriate’ EIA?

- All wind farms require an EIA
- The nature and extent of the EIA varies due to a number of factors
- Location
- Protected status of the site
- Bird populations
- Size of the proposal

# Choice of location

- Onshore site choice is based on land ownership wind profile, infrastructure etc. (can be good bird areas)
- Offshore, the seabed is owned by the Crown.
- Potential areas for wind farm development have been identified
- These are usually related to water depth and other physical factors
- They may also be good bird areas.
- Strategic assessment for the UK marine development is being revised with more reference to ecology.
- Developments in areas known to have high bird numbers would need a more comprehensive EIA

# Size of the development

- Many onshore developments are less than 10 turbines (some may be very large: 100+ turbines)
- Offshore developments are usually large for reasons of economics
- The larger the development the more comprehensive the EIA will need to be

# Bird populations

- Protected status is important:
  - International
    - RAMSAR
  - European
    - SPA
  - National
    - NNR, SSSI, NATURA 2000
  - Local
    - Local Nature reserves
- The greater the protection the more comprehensive the EIA will need to be and rejection is more likely
- But there are currently no protected areas for birds offshore

# Available guidance

- Guidance is only guidance
- Guidance is evolving
- Guidance is a compromise between biological science and commercial reality
- Guidance is provided by
  - Central Government
  - Government conservation bodies
  - Industry bodies
  - NGO's
- I.E those in the approvals process

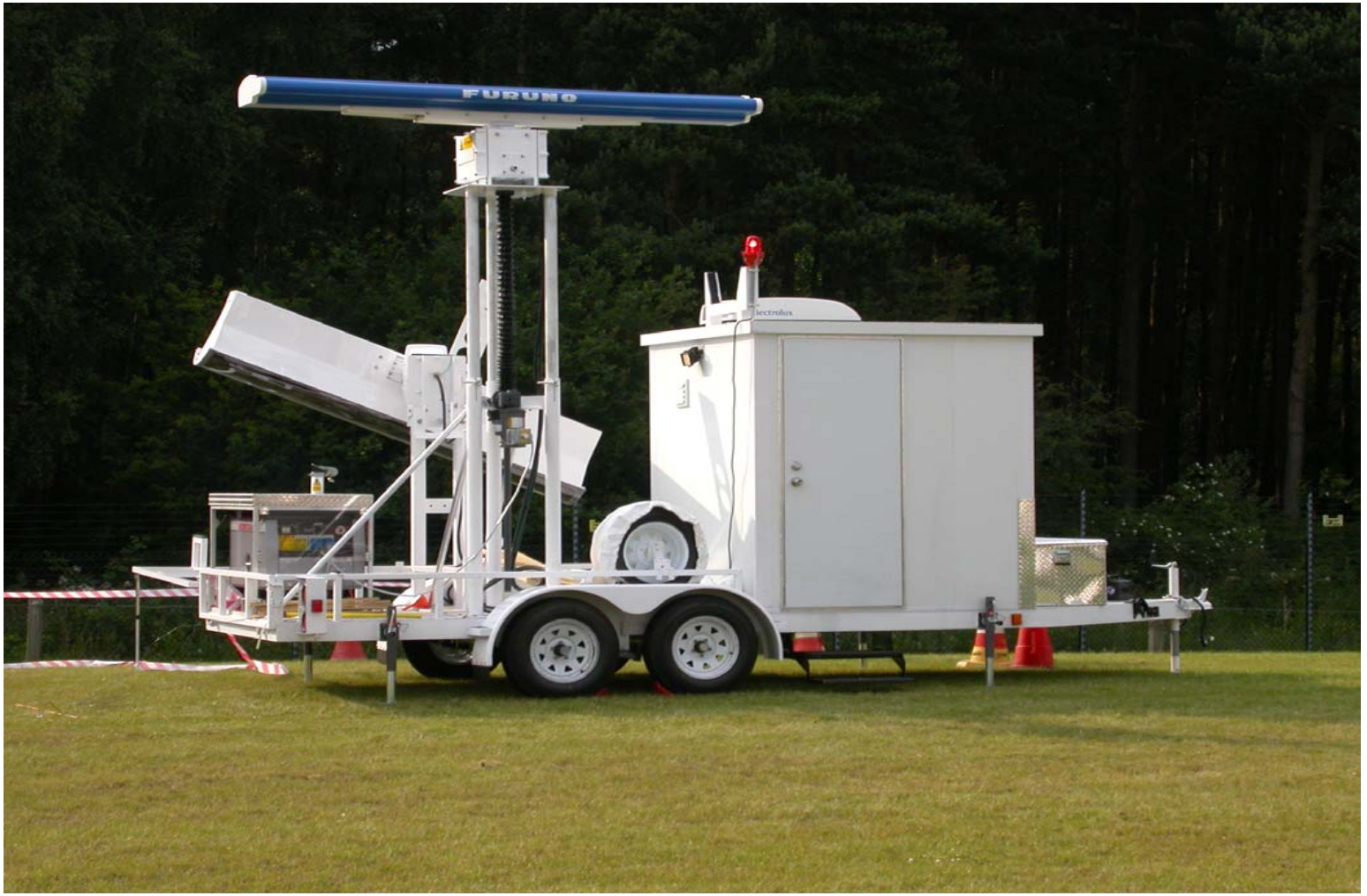
# Generic Guidance

- Pre-application scoping studies (desk and field based) are encouraged
- For the most problematic sites:
  - 2-3 years pre-development data gathering
  - Construction phase monitoring
  - 3 years post construction monitoring
- Choice of monitoring techniques depends on species of concern
- Government conservation bodies and NGOs will provide advice if asked

# Data Gathering onshore

- Guidance from Scottish Natural Heritage
- Breeding bird census
  - Min 3 visits at set times, recording all breeding pairs 200m either side of a transect line
  - Breeding raptors
    - Census techniques vary for each species
  - Breeding shorebirds
    - Min 2 visits, 20-25 mins in each 500x500m square covering all suitable habitat on the site

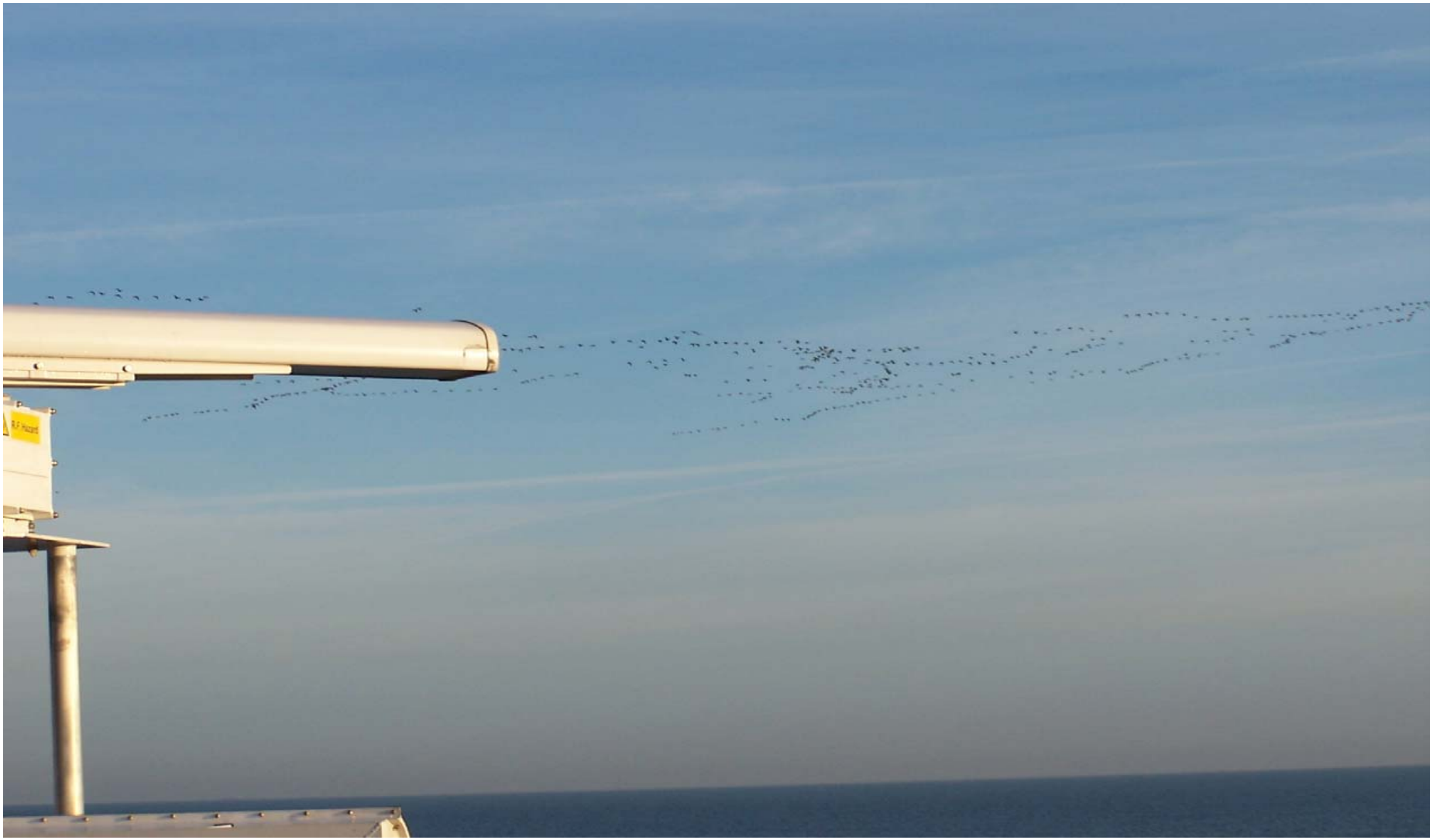
# Onshore radar monitoring



# Data gathering offshore - 1

- Guidance Available from DEFRA, COWRIE, CEFAS.
- Vantage point surveys (from shore)
  - 36 hrs per point per season (144hrs/yr)
  - Vantage points need to cover the wind farm area (impossible offshore)
  - Not effective at night
- Boat based
  - 1 visit per month on set transect covering 300m either side of boat transect lines <1km apart. Needs qualified observers.

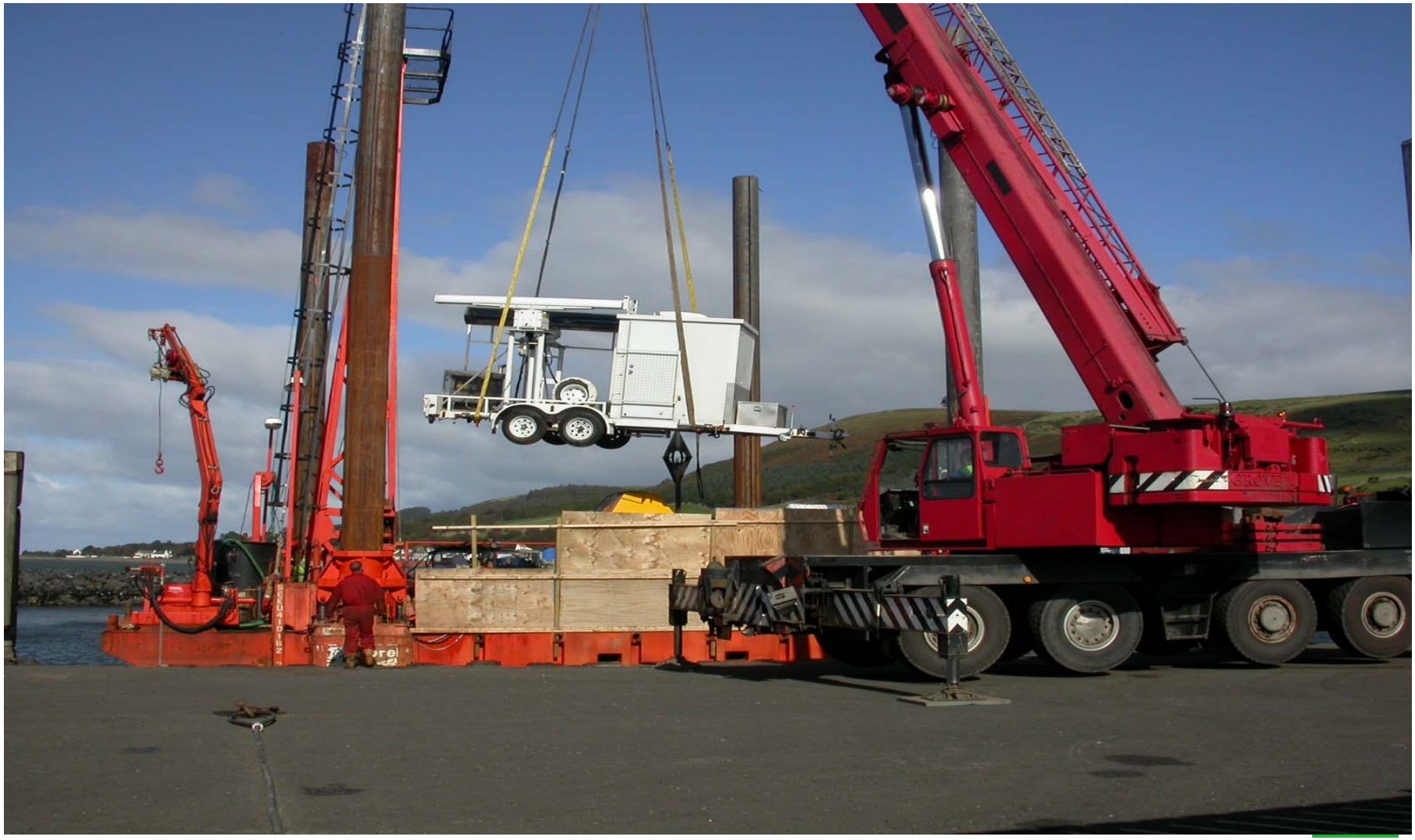
# Geese on the UK East Coast



# Data gathering offshore - 2

- Remote sensing (RADAR &TADS)
  - Min 20 days per year with two 7 day periods in key seasons. Prefer 1 week per month.
  - Offshore needs jack-up barge
  - Costly but better range than visual and works at night
  - Very limited species ID for radar
- Aerial
  - Defined survey techniques, scope for collaborative surveys over large areas.

# Radar on jack-up barge



# Data interpretation

- Collision risk models
  - Still in development
  - Argument about assumptions
  - Avoidance may vary between species/locations
  - Need to be tested by more observation & radar
- Population viability analysis
  - Local, national, international scale
  - Based on sound biology
  - Often lack data on particular species

# Making the decision

- The submitted EIA will be assessed for
  - Appropriate scope
  - Appropriate techniques
  - Rigour of data gathering
  - Appropriate interpretation of data
- Assessment made by
  - Government conservation bodies
  - NGO's
- I.E. Those who wrote the guidance!
- Decision made by planning officer/inspector
- Broader view based on economics/politics etc.

# If you don’t follow the guidance?

- Statutory consultees and NGO’s likely to object
- If permission is granted appeals are likely
- If permission is still granted appeals to the European court may follow
- You may be wrapped up in expensive litigation for a long time and/or be required to repeat some or all of the EIA
- So does the guidance get followed?
- Sometimes!